

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers)
Long Distance Carriers)
)

CC Docket No. 94-129

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OFFICE OF THE SECRETARY

REPLY COMMENTS OF USTA ON JOINT PETITION FOR WAIVER

The United States Telephone Association ("USTA"), by its counsel, files these reply comments regarding the joint petition for waiver (the "joint petition") filed by MCI WorldCom Inc. and several other parties (the "joint parties")^{1/} in the above-captioned proceeding.^{2/}

The Commission should deny the joint petition as filed on March 30, 1999 (the "March 30 proposal"), while continuing to encourage constructive discussions between the

^{1/} The joint parties are MCI WorldCom, Inc., AT&T Corp., the Competitive Telecommunications Association, Sprint Corporation, the Telecommunications Resellers Association, Excel Telecommunications, Frontier Corporation, and Qwest Communications Corporation.

^{2/} USTA requests authority to file these reply comments regarding the joint petition, if such authority is necessary. See 47 C.F.R. § 1.45(c). Acceptance of these reply comments is in the public interest because they provide new information to the Commission regarding meetings between USTA, some of its members, and the joint parties, that have taken place since the date that USTA filed its opposition to the joint petition. Because these reply comments are being served on counsel for the joint parties, the rights of those parties are not harmed by this filing.

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joint parties and incumbent local exchange carriers ("LECs") on the potential for a workable third party administrator ("TPA") system to address liability issues associated with slamming.

Representatives of USTA and several of its member LECs have met with the joint parties on TPA matters.^{3/} The most recent meeting was on April 20, 1999, with Commission staff attending. Because of the importance of this matter, USTA's members plan to meet with the joint parties in the near future for additional substantive discussions on TPA proposals. However, major differences continue to exist between the incumbent LECs and the joint parties regarding the proper role and operation of a TPA. At the same time, the National Association of Regulatory Utility Commissioners ("NARUC") has expressed concern over the scope and activities of the proposed TPA.^{4/} In this setting, grant of the joint petition would not satisfy the Commission's waiver standard^{5/} and would not serve the public interest.

On April 16, 1999, USTA opposed waiver of the Commission's liability rules for slamming based on the March 30 proposal.^{6/} Although USTA is not opposed to the concept of a TPA to address liability issues, the March 30 proposal does not serve the public interest and should not be adopted. That proposal does not contain the enforcement mechanisms and incentives necessary to meet the needs of incumbent LECs or slamming victims.^{7/} At the

^{3/} See, e.g., comments of Bell Atlantic at 5 n. 6. All references herein to a party's "comments" or "opposition" refer to a filing in CC Docket No. 94-129 on or about April 16, 1999.

^{4/} See generally comments of NARUC.

^{5/} See *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

^{6/} See USTA opposition.

^{7/} See *id.* at 3-4; see also comments of SBC Communications Inc. at 7-8; opposition of U S West Communications Inc. at 3-5.

same time, the March 30 proposal provides no solid information about its costs or about how incumbent LECs or other carriers would be expected to bear those costs.^{8/} USTA noted that there are major unaddressed operational issues with the proposal.^{9/} And most noticeably, the governance structure of the March 30 proposal's allegedly "neutral" TPA is biased to favor interexchange carriers ("IXCs").^{10/}

Recent meetings with the joint parties have clarified some aspects of the March 30 proposal as well as many of the joint parties' underlying concerns about the effect of the Commission's liability rules for slamming. But USTA's basic concerns about the specific March 30 proposal have yet to be resolved.

In light of the clear interest among the joint parties and LECs in a workable TPA system, USTA believes that focused, good-faith discussions could be fruitful, especially if the result is a TPA that serves as a clearinghouse for funds transferred among carriers to satisfy liability obligations^{11/} and a means of investigating customer complaints.^{12/} USTA believes that further active exploration of these issues is necessary, and is considering possible modifications of, or alternatives to, the March 30 proposal to advance this process. However, because the March 30 proposal in its present form is fundamentally flawed, the Commission should deny the joint petition while continuing actively to encourage a TPA system for liability issues.

^{8/} See USTA opposition at 4-5; *see also* comments of NARUC at 4-5.

^{9/} See USTA opposition at 5; *see also* comments of GTE Service Corporation at 5-6.

^{10/} See USTA opposition at 5-6; *see also* comments of Cincinnati Bell Telephone Company at 2-3; Rural LECs at 4.

^{11/} See, e.g., comments of Bell Atlantic at 5-6; SBC Communications Inc. at 11.

^{12/} See USTA opposition at 2.

WHEREFORE, the Commission should deny the joint petition as filed, while encouraging further discussion among the joint parties, the incumbent LECs, and other interested parties regarding a potential TPA for liability issues. Such a course will minimize customer confusion and will help telecommunications carriers avoid unnecessary costs and difficulty in preventing slamming.

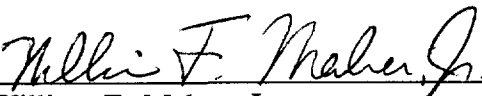
Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Mary-Helen Dove, hereby certify that on the 26th day of April, 1999, a true copy of the foregoing Reply Comments of USTA on Joint Petition for Waiver was served on the following:

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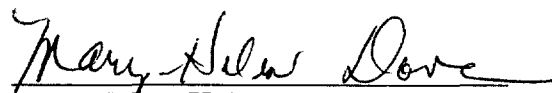
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